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THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Citovsky et al. )  
Serial No.: 09/435,274 ) Examiner: D. Lamberston  
Filed: November 5, 1999 ) Art Unit: 1636  
For: GENETIC ASSAY FOR PROTEIN )  
NUCLEAR TRANSPORT )  
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)

**DECLARATION UNDER 37 CFR § 1.131**

Assistant Commissioner for Patents  
Washington, D.C. 20231

Sir:

1. I, Karla M. Weyand, am the registered patent attorney handling prosecution of the above-identified patent application.

2. Claims 1-33 and 35 of the above-identified patent application have been rejected under 35 U.S.C § 102(a) as anticipated by WO98/49284 to Ueki et al. ("Ueki").

3. Ueki was filed as International Application PCT/JP98/01936 on April 27, 1998 and published on November 5, 1998. Accordingly, the available effective date of Ueki as a reference against the above-identified patent application is November 5, 1998.

4. The above-identified patent application was filed on November 5, 1999, claiming priority to U.S. Provisional Patent Application No. 60/107,417, filed on November 6, 1998.

5. The invention covered by the claims of the above-identified patent application was reduced to practice before November 5, 1998 (i.e. prior to the effective date of Ueki).

6. As evidence of the reduction to practice, attached hereto as Exhibit A is a letter from the assignee of

the above-identified patent application (The Research Foundation of State University of New York; recorded at Reel/Frame 010704/0024) forwarding a description of the invention. The date of this letter was prior to November 5, 1998.

7. The documentation covering the invention which was submitted under cover of the letter dated prior to November 5, 1998 is attached hereto as Exhibit B. This disclosure was ultimately filed as U.S. Provisional Patent Application Serial No. 60/107,417 on November 6, 1998.

8. This disclosure related to a construct (chimeric nucleic acid) which expresses a fusion protein for use in an assay for nuclear transport and a host cell and vector which includes the chimeric nucleic acid encoding the fusion protein, and a modified LexA protein having no nuclear localization signal.

9. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment or both under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

September 17, 2003

Date

Karla M. Weyand

Karla M. Weyand